

Communication to Record Substance of Interview

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Dated: August 8, 2008

Electronic Signature for Barbara A. Saltzman: /Barbara A. Saltzman/

Docket No.: 967-023
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Koichi Komoda

Application No.: 10/031,360

Confirmation No.: 2576

Filed: May 10, 2002

Art Unit: 2621

For: REPRODUCING/RECORDING APPARATUS

Examiner: S. Y. Hasan

COMMUNICATION TO RECORD SUBSTANCE OF INTERVIEW

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTRODUCTORY COMMENTS

Remarks/Arguments begin on page 2 of this paper.

REMARKS

A telephone interview was held on August 6, 2008 between Examiner Syed Y. Hasan, Supervisory Primary Examiner Thai Tran, and applicant's representative Dmitry Andreev.

Applicant's representative began the interview by reading the following statement: "The interview will be focused on a limited number of issues for purposes of reducing the time of the interview, and for purposes of expediting an allowance. The focused nature of the interview will not be taken as an indication that arguments for unpatentability by the Examiner not discussed are conceded to be correct and appropriately made. Applicant expressly reserves the rights, later in prosecution of the present application or another application, to challenge the propriety of the outstanding office action on grounds not discussed in the interview."

Applicant's representative stated that the interview will be focused on Claims 6, 10, and 13.

Applicant's representative further stated that in the Office Action of July 21, 2008, Claims 6, 10, and 13 have been rejected under *35 U.S.C. § 103(a)* as being unpatentable over U.S. Patent No. 6,810,200 to Aoyama et al. ('Aoyama') in view of U.S. Patent No. 6,847,695 to Kamibayashi et al. ('Kamibayashi').

Applicant's representative further stated that in accordance with a recent Supreme Court opinion in *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1733 (Sup. Ct. 2007), to determine obviousness under *35 U.S.C. § 103(a)*, "the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved," and hence one or more references must teach and every element of the claim.

With respect to claims 6, 10, and 13, applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of "erasing means for **erasing the contents from the [source] storage medium.**" The Examiner

replied by referencing Aoyama, reference numeral S210 of Fig. 6 and Col. 6, lines 20-25. Applicant's representative stated that while the referenced passage of Aoyama taught "delet[ing] the music data . . . from the data storage unit 1071," Aoyama's Fig. 2 and description¹ clearly showed that the data storage unit 1071 is an intermediate data storage which is different from the first (source) storage claimed by the applicant in claims 6, 10, and 13, since in the context of claims 6, 10, and 13, the "first storage minimum" is defined by the claim element of "a playback means for reproducing contents recorded on a first storage minimum and outputting the reproduced contents." Thus, even assuming *arguendo* that the apparatus depicted in Aoyama's Fig. 2 can be analogized to the apparatus of applicant's claims 6, 10, and 13 (which applicant reserves the right to dispute), then in order to satisfy the claim limitation of "erasing means for erasing the contents from the [source] storage medium," Aoyama would have had to teach a means for erasing the contents of the source CD 1080, rather than the intermediate data storage unit 1071.

The Examiner replied by requesting that the applicant's representative submit an amendment with a detailed argument of the issue.

Further with respect to claims 6, 10, and 13, applicant's representative asked the Examiner to identify where in the relied upon reference there is a teaching of erasing the content from the source storage medium "when the output of the detection means indicates that the contents are copy-inhibited." The Examiner replied that the prior art of record did not teach the quoted claim element. The applicant's representative stated that it is the applicant's position that the claim rejections of claims 6, 10, and 13 should be withdrawn at least for the reason of the prior art of record failing to teach or suggest the claim element of "the output of the detection means indicat[ing] that the contents are copy-inhibited."

Accordingly, in view of the above remarks, Applicant believes the present application to be in condition for allowance.

¹ Aoyama, Col. 6 lines 10-20

If the Examiner believes that contact with Applicant's attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicant's representative at the phone number listed below.

Dated: August 8, 2008

Respectfully submitted,

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